

AMENDED IN ASSEMBLY APRIL 8, 2003
AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 816

Introduced by Assembly Member Reyes
(Principal coauthors: Assembly Members Canciamilla and
Richman)

February 20, 2003

An act to add Section 9607.5 to the Public Utilities Code, and to amend Section 80110 of the Water Code, relating to electric power.

LEGISLATIVE COUNSEL'S DIGEST

AB 816, as amended, Reyes. Local publicly owned electric utilities: Public Utilities Commission: direct transactions.

(1) Existing law authorizes the Department of Water Resources to administer existing contracts for the purchase of electric power, and to sell power to retail end use customers and, with specified exceptions, local publicly owned electric utilities, at not more than the department's acquisition costs. Existing law imposes on retail end use customers of electrical corporations and community choice aggregators nonbypassable charges to repay certain costs of the department and electrical corporations.

This bill would additionally impose on a local publicly owned electric utility that begins serving electricity *after February 1, 2001*, to existing or new load in the service territory of an electrical corporation, as that territory existed on February 1, 2001, responsibility for those repayment costs, as determined by the Public Utilities Commission.

The bill would require the local publicly owned electric utility to determine the appropriate method by which to recover the costs imposed from its customers. The bill would require the cost recovery mechanism to ensure that any charges payable to the department and to the electrical corporation by a retail end use customer are promptly remitted to the party entitled to payment. *By imposing new responsibilities on local publicly owned electric utilities, this bill would impose a state-mandated local program.*

(2) Under existing law, the ~~Public Utilities Commission~~ *commission* has regulatory authority over public utilities, including electrical corporations, and authorizes the commission to fix just and reasonable rates and charges. *Existing law requires the commission to authorize direct transactions between electricity suppliers and end use customers.* Existing law suspends, after a period of time to be determined by the commission, the right of a retail end use customer to acquire electricity from other electric service providers pursuant to direct transactions, until the department no longer supplies electricity under those provisions.

This bill would require the commission to reinstate the right of retail end use customers to acquire electricity from other electric service providers subject to specified conditions. Because a violation of an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.

(3) ~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~ *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs



so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9607.5 is added to the Public Utilities
2 Code, to read:

3 (a) To prevent cost shifting of recoverable costs between
4 customers, a local publicly owned electric utility that begins
5 serving electricity *after February 1, 2001*, to existing or new load
6 in the service territory of an electrical corporation, as that territory
7 existed on February 1, 2001, is responsible for the costs described
8 in subdivisions (d), (e), (f), and (g) of Section 366.2, as determined
9 by the commission.

10 (b) The local publicly owned electric utility is not responsible
11 for the costs described in subdivisions (d), (e), (f), and (g) of
12 Sections 366.2 when it serves new load within its exclusive electric
13 service territory as that *exclusive electric service* territory existed
14 on February 1, 2001.

15 (c) The local publicly owned electric utility shall determine the
16 appropriate method by which to recover the costs imposed
17 pursuant to this section from its customers. The cost recovery
18 mechanism shall ensure that any charges payable to the
19 Department of Water Resources and to the electrical corporation
20 by a retail end use customer are promptly remitted to the party
21 entitled to payment. Charges imposed pursuant to this section are
22 nonbypassable.

23 SEC. 2. Section 80110 of the Water Code is amended to read:

24 80110. (a) The department shall retain title to all power sold
25 by it to the retail end use customers. The department shall be
26 entitled to recover, as a revenue requirement, amounts and at the
27 times necessary to enable it to comply with Section 80134, and
28 shall advise the commission as the department determines to be
29 appropriate. ~~Such~~ *Those* revenue requirements may also include
30 any advances made to the department hereunder or hereafter for
31 purposes of this division, or from the Department of Water
32 Resources Electric Power Fund, and General Fund moneys
33 expended by the department pursuant to the Governor's *State of*

1 Emergency Proclamation, dated January 17, 2001. For purposes
2 of this division and except as otherwise provided in this section,
3 the ~~Public Utilities Commission's~~ *commission's* authority as set
4 forth in Section 451 of the Public Utilities Code shall apply, except
5 any just and reasonable review under Section 451 shall be
6 conducted and determined by the department. The commission
7 may enter into an agreement with the department with respect to
8 charges under Section 451 for purposes of this division, and that
9 agreement shall have the force and effect of a financing order
10 adopted in accordance with Article 5.5 (commencing with Section
11 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities
12 Code, as determined by the commission. In no case shall the
13 commission increase the electricity charges in effect ~~on the date~~
14 ~~that the act that adds this section becomes effective~~ *February 1,*
15 *2001*, for residential customers for existing baseline quantities or
16 usage by those customers of up to 130 percent of existing baseline
17 quantities, until ~~such time as~~ the department has recovered the
18 costs of power it has procured for the electrical corporation's retail
19 end use customers as provided in this division.

20 (b) The right of retail end use customers pursuant to Article 6
21 (commencing with Section 360) of Chapter 2.3 of Part 1 of
22 Division 1 of the Public Utilities Code to acquire service from
23 other providers shall be reinstated by the ~~Public Utilities~~
24 ~~Commission~~ *commission*, once each of the following conditions
25 are met:

26 (1) The ~~Public Utilities Commission~~ *commission* has
27 established a cost responsibility surcharge for customers that opt
28 for direct transactions. Each retail end use customer that has
29 purchased power from an electrical corporation on or after
30 February 1, 2001, shall bear a fair share of the department's
31 electricity purchase costs that are recoverable from electrical
32 corporation customers in commission-approved rates.

33 (2) The State of California has issued revenue bonds pursuant
34 to Chapter 2.5 (commencing with Section 80130).

35 (3) The electrical corporations are procuring electricity under
36 procurement plans pursuant to Section 454.5 of the Public Utilities
37 Code.

38 (c) The department shall have the same rights with respect to
39 the payment by retail end use customers for power sold by the
40 department as do providers of power to those customers.

~~SEC. 3.— No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.